



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 1

**DATE:** June 16, 2020

**TO:** Mayor Jerry L. Demings  
and the  
Board of County Commissioners

**THROUGH:** Paul Sladek, Manager *PBS*  
Real Estate Management Division

**FROM:** Alex Feinman, Leasing Program Manager  
Real Estate Management Division *AF by PBS*

**CONTACT PERSON:** Paul Sladek, Manager

**DIVISION:** Real Estate Management  
Phone: (407) 836-7090

**ACTION REQUESTED:** Approval and execution of Interlocal Agreement between The School Board of Orange County, Florida and Orange County, Florida and delegation of authority to the Real Estate Management Division to exercise renewal options and furnish notices, required or allowed by the agreement, as needed

**PROJECT:** OCPS at Bithlo Community Park (Parks and Rec)  
18501 Washington Avenue, Orlando, Florida 32820  
Lease File #10068  
  
District 5

**PURPOSE:** To continue to provide space for The School Board of Orange County, Florida's Alternative to Out-of-School Suspension Program.

Real Estate Management Division

Agenda Item 1

June 16, 2020

Page 2

**ITEM:** Interlocal Agreement  
Cost: None  
Term: 3 years  
Options: Three, 1-year renewals

**APPROVALS:** Real Estate Management Division  
County Attorney's Office  
Parks and Recreation Division  
Risk Management Division

**REMARKS:** County currently allows The School Board of Orange County, Florida (OCPS) to use certain facilities at Bithlo Community Park (Park) for OCPS' Alternative Out-of-School Suspension Program (Program) under an Interlocal Agreement approved by the Board on September 23, 2014, as amended.

This action provides for a new Interlocal Agreement between County and OCPS to allow OCPS' continued use of certain meeting and assembly rooms at the Park for the Program for three years, with three, 1-year renewal options.

**INTERLOCAL AGREEMENT  
BETWEEN  
THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA  
AND  
ORANGE COUNTY, FLORIDA**

---

THIS INTERLOCAL AGREEMENT (this “**Agreement**”) is made effective as of the date last executed below (the “**Effective Date**”) and entered into by and between ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (“**COUNTY**”) and THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA, a public corporate organized and existing under the constitution and laws of the State of Florida (“**SBOC**”).

**RECITALS:**

- A. COUNTY and SBOC (each a “**Party**,” and collectively, the “**Parties**”) desire to enter into this Agreement where the COUNTY authorized the SBOC access to the meeting and assembly rooms in the COUNTY’s Bithlo Community Center facility, located at 18501 Washington Avenue, Orlando, Florida 32820 (the “**Premises**”) to conduct the SBOC’s “Alternative to Out-of-School Suspension” program (the “**Program**”).
  
- B. The Parties desire to collaborate to facilitate the Program in the Premises, subject to the mutually agreed-upon terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, COUNTY and SBOC:

**Section 1. Recitals.** The recitals set forth above are true and correct and are incorporated herein by this reference.

**Section 2. Term and Termination.**

- A. ***Term.*** This Agreement shall be effective for an initial term of three (3) years commencing on July 1, 2020 and terminating on June 30, 2023 (the “**Initial Term**”), unless sooner terminated as provided hereunder.
  
- B. ***Optional Renewal Term(s).*** Following the expiration of the Initial Term, COUNTY and SBOC may, but shall not be required to, renew this Agreement for up to three (3), one (1) year consecutive terms (each a “**Renewal Term**”),

which must be entered into by written agreement and executed by both parties.

- i. **Delegated Authority.** COUNTY's Manager of the Real Estate Management Division, or designee, shall have the authority to renew this Agreement on behalf of COUNTY. Any such renewal shall be subject to the same terms and conditions as set forth herein, unless otherwise agreed to, in writing, by both parties.

**C. Termination.**

- i. Either party may terminate this Agreement by giving thirty (30) days' prior notice, in writing, to the other party for any or no reason, but, until so terminated, this Agreement shall remain in full force and effect. It is further agreed that a substantial breach of any section of this Agreement shall be a basis for immediate termination. Without limitation, failure of a party to meet its obligations hereunder for a period of ten (10) days is deemed a substantial breach hereunder. Each party is responsible to the other to fulfill its respective obligations until the date of termination.
- ii. The COUNTY may immediately terminate this Agreement when, at the COUNTY's sole discretion, termination is in the best interest of the public health, safety, and welfare of the public. Termination pursuant to this subsection shall be without penalty to the COUNTY. The COUNTY shall provide SBOC with notice of such termination as soon as is practicable under the circumstances warranting termination.

**Section 3. Rent.** In lieu of rental, and as consideration for the use and occupancy of the Premises during the Initial Term, and any Renewal Term, the SBOC shall provide the services set forth in Section 4, SBOC's Responsibilities, herein.

**Section 4. SBOC Responsibilities.**

- A. SBOC's use of the Premises for the Program is authorized Monday through Friday between the hours of 7:30 am and 3:00 pm, on those days school is in session in accordance with the Orange County Public School Calendar for the respective school year.
- B. SBOC shall be solely responsible for the instruction, supervision, and safety of all students enrolled in the Program, which shall include, but not be limited to providing at least one (1) teacher, one (1) paraprofessional/aide, and one (1) off-duty law enforcement officer/uniformed SBOC security officer at the Facility at all times during the Program.
- C. SBOC shall be solely responsible for providing the student instructional materials, supplies and/or equipment required for the Program. Further, SBOC shall provide any telephone, Wi-Fi, or other utility service necessary for the Program not regularly provided by the COUNTY at the Facility.

- D. SBOC shall be solely responsible for the clean-up of the Premises each day after use.
- E. SBOC shall be solely responsible for the cost to repair any damage to the Premises or other COUNTY property or equipment caused directly or indirectly by SBOC staff or students. SBOC shall immediately report any such damage to the COUNTY. COUNTY shall be responsible for making any necessary repairs to the Premises and shall submit an invoice to SBOC detailing the costs of the repairs. SBOC shall submit payment to the COUNTY on any such invoice no later than thirty (30) days after receipt of same by SBOC.

**Section 5. COUNTY Responsibilities.**

- A. The COUNTY shall provide SBOC with use of the tables and chairs located within the meeting and assembly rooms in the Premises.
- B. Except as provided in Section 4 of this Agreement, the COUNTY shall be responsible for, at its sole cost and expense, the maintenance, repair, and custodial care of the Premises including, without limitation, furnishing all necessary labor, materials, and equipment for said maintenance, repair, and care.
- C. The COUNTY shall provide, at its sole cost and expense, only electrical telephone, and other utility services regularly provided by the COUNTY at the Premises.
- D. The COUNTY shall provide, at its sole cost and expense and at its sole discretion, any necessary COUNTY personnel (other than personnel provided by SBOC) required to maintain the Premises.

**Section 6. Insurance.** COUNTY and SBOC, each as an independent contractor and not an agent, representative, or employee of the other, agree to carry adequate liability and other appropriate forms of insurance. SBOC shall procure and maintain, for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with use of the Facility by SBOC, its agents, representatives, employees, subcontractors or students pursuant to this Agreement.

COUNTY and SBOC are each political subdivisions of the State of Florida. As such, each party will accept participation in the State of Florida Risk Management Trust Fund or other self-insurance program, at the limits corresponding to statutory waivers of sovereign immunity, if any.

Minimum limits of Insurance:

Workers Compensation Insurance - Statutory Limits

Each party shall maintain, during the life of this Agreement, adequate Workers Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for

all of its employees performing work pursuant to this Agreement.

**Section 7. Indemnification.** Each party agrees to defend, indemnify, and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the indemnifying party's own negligent acts or omissions, or those negligent acts or omissions of the indemnifying party's officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Each party's indemnification is expressly limited to the amounts set forth in Section 768.28(5), Florida Statutes as amended by the Florida State Legislature. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, and/or negligence of the other party, its officers, officials, employees, agents, or contractors.

**Section 8 Successors and Assigns.** SBOC and COUNTY each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither SBOC nor COUNTY shall assign, sublet, convey or transfer its interest in this Agreement without the prior, written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of SBOC or COUNTY, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than SBOC and COUNTY.

**Section 9. Governing Law and Remedies.** This Agreement shall be construed under and governed by the laws of the State of Florida. Any legal action arising out of this Agreement will have its venue in Orange County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**Section 10. Attorney's Fees.** In any legal proceeding initiated for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any provision of this Agreement, each party shall be responsible for its own attorney's fees and costs through all court or dispute resolution proceedings through final disposition.

**Section 11. Independent Contractor Relationship.** Each party hereto, in relation to the rights and obligations provided under this Agreement, is an independent contractor of the other party and not an employee, agent, or servant of the other party. All persons engaged in any activity authorized pursuant to this Agreement shall at all times and in all places be subject to their own party's direction, supervision, and control. Each party hereto shall exercise control over the means and manner in which it and its officers, agents, and employees perform pursuant to this Agreement. Neither party hereto has the power or authority to bind the other party in any promise, agreement or representation.

**Section 12. Nondiscrimination.** Both parties hereto warrant and represent that all of its employees are treated equally during employment without regard to race, color, religion, sex,

age, national origin sexual orientation, gender identity or expression, and genetic information or any other category of persons protected pursuant to Florida law.

**Section 13. Survival.** All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. The insurance and indemnity provisions set forth in the Agreement shall survive the termination of the Agreement.

**Section 14. Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternative contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

**Section 15. Names; Trademarks.** Neither party hereto shall acquire rights under this Agreement to, and shall not use, the name of the other party, either alone or in conjunction with or as part of any other name, word, mark, picture, logo, design, and/or trademark of the other party ("**Marks**") in any advertising, publicity or promotion; to express or imply any endorsement by the other party of its services; or in any other manner (whether or not similar to the uses hereinabove specifically prohibited ) without the prior review and written approval by the other party. No advertisement, publication or other use of the other party's Marks shall be published or otherwise promulgated by either party hereto without the other party's prior inspection and written approval. This clause shall survive the expiration or sooner termination of the Agreement.

**Section 16. Non-Exclusive Agreement.** The parties understand and agree this Agreement is a non-exclusive agreement and the parties hereto may participate in other comparable programs with any other person or entity.

**Section 17. Force Majeure.** Neither party will be held responsible for any delay or failure in performance of any party of this Agreement to the extent such delay or failure is caused by explosion, war, embargo, pandemic, local, state or federal government requirements, civil or military authority, act of God, or other similar cause beyond either party's control so long as the delay is not caused by the party's own fault or negligence.

**Section 18. Entirety of Agreement.** SBOC and COUNTY agree that this Agreement and any documents made a part hereof, set forth the entire agreement between the parties, that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**Section 19.** **Notice.** All formal notices, proposed changes and determinations between the parties hereto including, but not limited to, changes to the notification addresses set forth below, shall be in writing and shall be sufficient if mailed by certified United States mail, postage prepaid, to the parties at the contact information listed below:

To COUNTY: Orange County Parks and Recreation Division  
Attn: Manager  
4801 West Colonial Drive  
Orlando, FL 32808

*with copies to:* Orange County Real Estate Management Division  
Attn: Manager  
P.O. Box 1393  
Orlando, FL 32802

*and:* Orange County Attorney's Office  
P.O. Box 1393  
Orlando, FL 32802

TO SBOC:  
  
Attention: Gregory Moody  
Associate Superintendent  
School Choice Services  
6501 Magic Way, Building 100 B  
Orlando, FL 32809

**Section 20.** **Counterparts.** This Agreement may be executed in two or more counterpart copies, each of which shall be fully effective as an original, and all of which together shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document.

*(signature pages follow)*



OCPS at Bithlo Community Park (Parks and Rec)  
Lease File #10068

IN WITNESS WHEREOF, COUNTY and SBOC have caused this "Interlocal Agreement" to be executed by their respective officers and parties thereunto duly authorized to be effective as of the Effective Date.

"COUNTY"  
ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

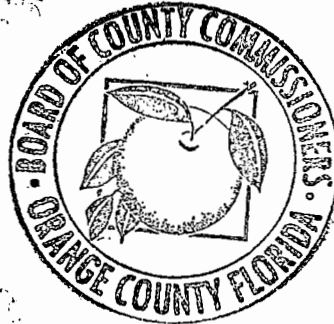
By: *Jerry L. Demings*  
for Jerry L. Demings  
Orange County Mayor

Date: *8 July 2020*

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk to the Board of County Commissioners

By: *Noelia Perez*  
for Deputy Clerk


Printed Name: *Noelia Perez*



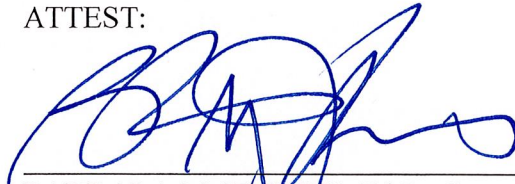
OCPS at Bithlo Community Park (Parks and Rec)  
Lease File #10068

IN WITNESS WHEREOF, COUNTY and SBOC have caused this "Interlocal Agreement" to be executed by their respective officers and parties thereunto duly authorized to be effective as of the Effective Date.

**SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**

  
\_\_\_\_\_  
TERESA JACOBS, Chair  
Date: 8.20.2020

ATTEST:

  
\_\_\_\_\_  
BARBARA M. JENKINS, Ed.D., Superintendent  
Date: 8.20.2020